

in eastern Washington and in our State of Washington, our beloved State of Washington. So it was with pleasure that all of the members of our delegation signed onto this bill that I introduced, most notably Democrats and Republicans alike who had worked with Mr. Foley and Mr. Horan in some respects and have enormous respect for those two men.

So I thank the House for considering this bill, I urge that it be adopted unanimously and that the respect and dignity that is due Mr. Horan and Mr. Foley will continue under the name sake of the Thomas S. Foley United States Courthouse and the Walt F. Horan Plaza.

Mr. COBLE. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 211, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the 'Thomas S. Foley United States Courthouse', and the plaza at the south entrance of such building and courthouse as the 'Walter F. Horan Plaza'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 211, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COPYRIGHT DAMAGES IMPROVEMENT ACT OF 1999

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1761) to amend provisions of title 17, United States Code, relating to penalties, and for other purposes as amended.

The Clerk read as follows:

H.R. 1761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Damages Improvement Act of 1999".

SEC. 2. STATUTORY DAMAGES ENHANCEMENT.

Section 504(c) of title 17, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "\$500" and inserting "\$750"; and

(B) by striking "\$20,000" and inserting "\$30,000"; and

(2) in paragraph (2), by striking "\$100,000" and inserting "\$150,000".

SEC. 3. SENTENCING COMMISSION GUIDELINES.

Section 2(g) of the No Electronic Theft (NET) Act (28 U.S.C. 994 note) is amended by striking paragraph (2) and inserting the following:

"(2) In implementing paragraph (1), the Sentencing Commission shall amend the guideline applicable to criminal infringement of a copyright or trademark to provide an enhancement based upon the retail price of the legitimate items that are infringed upon and the quantity of the infringing items. To the extent the conduct involves a violation of section 2319A of title 18, United States Code, the enhancement shall be based upon the retail price of the infringing items and the quantity of the infringing items.

"(3) Paragraph (1) shall be implemented not later than 3 months after the later of—

"(A) the first day occurring after May 20, 1999, or

"(B) the first day after the date of the enactment of this paragraph,

on which sufficient members of the Sentencing Commission have been confirmed to constitute a quorum.

"(4) The Commission shall promulgate the guidelines or amendments provided for under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired."

SEC. 4. EFFECTIVE DATE.

The amendments made by section 2 shall apply to any action brought on or after the date of the enactment of this Act, regardless of the date on which the alleged activity that is the basis of the action occurred.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and insert extraneous material into the RECORD on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1761 makes significant improvements in the ability of the Copyright Act to deter copyright infringement. It will increase the statutory damages available to copyright owners whose registered works have been infringed in an effort to deter infringing conduct. Copyright piracy is flourishing in the world. With the advanced technologies available and the fact that many computer users are either ignorant of the copyright laws or simply believe that they will not be caught or punished, the piracy trend will continue.

One way to combat this problem is to increase the statutory penalties for copyright infringement so that there will be an effective deterrent to this conduct.

Another significant aspect of H.R. 1761 addresses a problem the subcommittee learned about during an oversight hearing on the implementation of the NET Act and enforcement against Internet piracy. The House Judiciary Subcommittee on Courts and Intellectual Property received testimony about the lack of prosecutions being brought under the act by the Department of Justice and the Sentencing Commission staff failure to address Congress' desire to impose strict penalties for violations of the act that will deter infringement in their recent report. H.R. 1761 clarifies Congress' intent that the United States Sentencing Commission ensure that the sentencing guideline for the intellectual property offenses provide for consideration of the retail price of the legitimate infringed-upon item and the quantity of infringing items in order to make the guidelines sufficiently stringent to deter such crime. This language gives the Sentencing Commission the discretion to adopt an aggravating adjustment where it may be appropriate in cases of pre-released copyright piracy in which no corresponding legitimate copyrighted item yet exists, but the economic harm could be devastating. These changes will enable the Department of Justice to better prosecute crimes against intellectual property.

It is vital that the United States recognizes intellectual property rights and provides strong protection and enforcement against violations of those rights. By doing that the United States will protect its valuable intellectual property and encourage other countries to enact and enforce strong copyright protection laws.

I would like to commend the distinguished gentleman from California (Mr. ROGAN) for his leadership in introducing this bill and his hard work in bringing it to this point. H.R. 1761 is an important piece of legislation, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1761, the Copyright Damages Improvement Act of 1999. Consistent with the responsibility conferred on us by article 1, section 8, of the Constitution, we are required from time to time to assess the efficacy of our intellectual property laws in protecting the works of authors and inventors. Toward that end earlier this year the Subcommittee on Courts and Intellectual Property resolved to address several concerns which had been brought to our attention regarding the deterrence of copyright infringement and penalties for

such infringement in those instances when it does unfortunately occur.

The bill originally reported out by the Committee on the Judiciary was broader in scope than the bill before us today, and I supported that bill in its previous form, but we resolved to bring before this body a bill reflecting a consensus, and that is what we have done. I know of no opposition to the bill under consideration today.

The bill has two key features. First the bill provides an inflation adjustment for copyright statutory damages. It has been well over a decade since we last adjusted statutory damages for inflation. Our purpose must be to provide meaningful disincentives for infringement, and to accomplish this the cost of infringement must substantially exceed the cost of compliance so that those who use or distribute intellectual property have an incentive to comply with the law. The inflation adjustments provided in H.R. 1761 accomplish that objective.

Secondly, at a hearing held this past May, the Subcommittee on Courts and Intellectual Property heard evidence that the current sentencing guidelines for intellectual property crimes is not sufficiently stringent to deter such crimes.

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The subcommittee's conclusion ratified by the committee was that the current guideline with its reliance on the value of the infringing item should be replaced with a guideline based on the retail price of the infringed upon item. At the same time, as a result of quite productive discussions with the staff of the sentencing commission, we acknowledged the commission's ability to make reasonable adjustments, aggravating or mitigating, as appropriate.

Mr. Speaker, I want to thank the chairman of the subcommittee for bringing this bill to the floor and for his consistent work in bringing bills to strengthen our intellectual property laws to the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from California, and I was about to do the same to him. We have worked very closely on this. This has taken a good amount of time, both on the part of gentleman from California (Mr. BERMAN) and me as well as other members of the subcommittee and staff. All have done a good job. This is an important piece of legislation.

Mr. ROGAN. Mr. Speaker, copyright violations, particularly those via the Internet, are a growing problem. H.R. 1761 the Copyright Damages Improvement Act of 1999 ensures that changes in federal law keep up with changes in technology. This bill provides an effective deterrent against copyright infringers

and Internet privacy. I am pleased to join the chairman of the Courts and Intellectual Property Subcommittee, Mr. COBLE, and the gentleman from Virginia Mr. GOODLATTE, along with the ranking member of the subcommittee, the gentleman from California Mr. BERMAN, to make these significant improvements to the Copyright Act and the No Electronic Theft Act.

H.R. 1761 will increase the amount of statutory damages available for copyright infringement. Specifically, this bill, as amended, increases existing penalties for infringement by 50%. Further, the bill clarifies Congress' intent that the United States Sentencing Commission consider the retail price of a legitimate infringed-upon work and the quantity of the infringed upon works when determining sentencing guidelines for intellectual property offenses.

During the subcommittee's hearing on the "Implementation of the NET Act and Enforcement Against Internet Privacy," the concern raised about the lack of prosecutions being brought by the Justice Department and the Sentencing Commission's failure to address Congress' desire to impose strict penalties for violators. The committee heard how the price that pirated material is sold for on the black market is often the value used for prosecution, not the actual value of the copyrighted item. This is wrong. My bill clarifies that the Sentencing Commission shall use the retail price and quantity of the infringed-upon goods as bases for determining their value.

Finally, I want to recognize and thank all of the interested parties who came together to work out the compromise language that is contained in the manager's amendment today. These needed changes will give added protections to copyright owners by strengthening the deterrents for intellectual property theft, and enable the Department of Justice to better prosecute crimes against copyright owners.

Mr. Speaker, it is crucial that our country remain the leader in the protection and enforcement of intellectual property rights, H.R. 1761 increases the damages for copyright infringement, and serves as a strict deterrent for those who try to skirt the law. I urge my colleagues to support the passage of this bill in its amended form.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 1761, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. COBLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1257) to amend statutory damages provisions of title 17, United States Code, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. BERMAN. Mr. Speaker, reserving the right to object, I do so simply to yield to my friend from North Carolina to indicate his intentions with respect to bringing up the Senate bill at this time.

Mr. COBLE. Mr. Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Speaker, the purpose of this request is to amend the companion Senate bill and send it back to the Senate with the amendment that the House just passed.

Mr. BERMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Digital Theft Deterrence and Copyright Damages Improvement Act of 1999".

SEC. 2. STATUTORY DAMAGES ENHANCEMENT.

Section 504(c) of title 17, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "\$500" and inserting "\$750"; and

(B) by striking "\$20,000" and inserting "\$30,000"; and

(2) in paragraph (2)—

(A) by inserting "(A)" after "(2)";

(B) by striking "\$100,000" and inserting "\$150,000";

(C) by inserting after the second sentence the following:

"(B) In a case where the copyright owner demonstrates that the infringement was part of a repeated pattern or practice of willful infringement, the court may increase the award of statutory damages to a sum of not more than \$250,000 per work."; and

(D) by striking "The court shall remit statutory damages" and inserting the following:

"(C) The court shall remit statutory damages".

Passed the Senate July 1, 1999.

MOTION OFFERED BY MR. COBLE

Mr. COBLE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. COBLE moves to strike all after the enacting clause of the Senate bill, S. 1257, and to insert in lieu thereof the text of H.R. 1761 as it passed the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "to amend provisions of title 17, United States Code, relating to penalties, and for other purposes."

A motion to reconsider was laid on the table.